

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EARNEST TAYLOR,

Plaintiff,

v.

Case Number: 09-12756
Honorable David M. Lawson
Magistrate Judge Virginia M. Morgan

DR. MALATINSKY, STEVEN
GIDEL, R POMALOY,
ESANTA CRUZ, JOHN UPP,
MARIO BAYONETO

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION AND
GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

The plaintiff, an inmate in the custody of the Federal Bureau of Prisons, brought this *pro se* suit against the defendants alleging that the defendants deprived the plaintiff of his rights under the United States Constitution through their deliberate indifference to his serious medical needs. The matter was referred to Magistrate Judge Virginia M. Morgan for general case management. On June 28, 2010, the defendants filed a motion for summary judgment to which the plaintiff responded on August 30, 2010. The defendants filed a reply, and on September 30, 2010, Magistrate Judge Virginia M. Morgan issued a Report and Recommendation to grant the defendants' motion for summary judgment. The plaintiff did not submit any objections to the Magistrate Judge's Report and Recommendation but did file a sur-reply to the defendants' reply. In his terse sur-reply, the plaintiff insists that he is challenging the record as well as his treatment, and a jury trial is required to resolve this dispute.

Generally, objections to a report and recommendation are reviewed *de novo*. 28 U.S.C. §

636(b)(1). However, the Sixth Circuit has stated that “[o]verly general objections do not satisfy the objection requirement.” *Spencer v. Bouchard*, 449 F.3d 721, 725 (6th Cir. 2006). “The objections must be clear enough to enable the district court to discern those issues that are dispositive and contentious.” *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995). “[O]bjections disput[ing] the correctness of the magistrate’s recommendation but fail[ing] to specify the findings . . . believed [to be] in error’ are too general.” *Spencer*, 449 F.3d at 725 (quoting *Miller*, 50 F.3d at 380).

“[T]he failure to file specific objections to a magistrate’s report constitutes a waiver of those objections.” *Cowherd v. Million*, 380 F.3d 909, 912 (6th Cir. 2004). The Court must conclude in this case that the plaintiff has waived his right to object to the substance of the report, and this Court need not conduct a *de novo* review of the issues thoroughly addressed by the magistrate judge. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985) (holding that the failure to object to the magistrate judge’s report releases the Court from its duty to independently review the motion); *Smith v. Detroit Fed’n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Moreover, after examining the record, the Court agrees with the magistrate judge that the defendants’ motions should be granted.

Accordingly, it is **ORDERED** that the Magistrate Judge’s Report and Recommendation [dkt # 33] is **ADOPTED**.

It is further **ORDERED** that the defendants’ motion for summary judgment [dkt. #24] is **GRANTED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: November 4, 2010

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on November 4, 2010.

s/Deborah R. Tofil
DEBORAH R. TOFIL